

# COLAS FOR PERMANENT TOTAL DISABILITY & SURVIVORS' BENEFITS

PTD COLA: SB 377 Amends NRS 616C.473

Survivors' Benefits COLA: AB 370 (Sec. 3.5) - Not yet codified

### Why are we here?



 Overview of AB 370 and SB 377: Similarities and Differences

- Review calculation methods and examples
- Overview of Steps for Reimbursement and the monthly Rate Verification Process

### COLAs for Permanent Total Disability (PTD) and Survivors' Benefits



The 2019 Nevada Legislature passed two workers' compensation bills that provide for an increase in benefits for some injured workers and their dependents starting January 1, 2020:

- Senate Bill 377 (SB 377), Permanent Total Disability (PTD)
   Benefits
- Assembly Bill 370 (AB 370), Death (Survivors') Benefits

#### What is a COLA?



#### COLA =

### Cost of Living Adjustment

- > AB 370 and SB 377 do not include "COLA" language.
- ➤ We will use "COLA" to refer to the 2.3% annual increases described in the legislation.

#### Prior COLA Laws



 PTD Claims: Dates of Injury 1/1/04 and later received COLA pursuant to NRS 616C.473

Survivors' Benefits Claims: Did not receive a COLA

#### AB 370 & SB 377 Similarities



- Effective date: July 1, 2019
- Provide for a 2.3% annual increase in monthly benefits
- Annual increases start January 1, 2020
- Allows insurers to be reimbursed for the additional costs associated with the increase for certain claims

#### AB 370 & SB 377 Differences



#### AB 370 (Survivors' Claims):

- One-time "catch-up" calculation must be applied to monthly benefit rate <u>prior to</u> the January 2020 increase, if applicable (Secs. 5 & 6).
- Reimbursement applies only to Survivors' claims with dates of injury prior to July 1, 2019 (Sec. 4).

#### SB 377 (PTD Claims):

- No "catch-up" calculation: PTDs already had either annual payment from DIR (NRS 616C.453) or ongoing 2.3% COLA (NRS 616C.473)
- Reimbursement applies only to PTD claims with dates of injury prior to January 1, 2004.
- Repeals NRS 616C.453

#### **End Result**

Beginning January 1, 2020 and every January 1 thereafter:

All Survivors' Claims and PTD Claims receive an annual increase of 2.3% to their monthly benefit rate.

#### Monthly Rate Calculation NRS 616C.440 (1)(a) – PTD Claims NRS 616C.505(2) – Survivors' Benefits

- PTD & Survivors' Benefits both 66 2/3 percent of the Average Monthly Wage (AMW).
  - ✓ PTD/Survivors' Monthly Rate= AMW x 2 → 3
- AMW Calculation (NAC 616C.432)
  - ✓ Average Daily Wage (ADW) = Gross Earnings / Days in Period
  - $\checkmark$ AMW = ADW X 30.44 days





AB 370 (Sec. 6)

Claims with Dates of Injury/Occupational Disease Disablement on or after 1/1/1989 and before 1/1/1994: 2.3% compounded 2 times

Monthly Rate X 2.3% compounded 2 times (4.653%)



Monthly Rate x 4.6%



**EXAMPLE: 1** 

Monthly Rate of \$1000

DOI: 1/1/1989 TO 12/31/1993 – ENTITLED TO COLA OF 2.3% COMPOUNDED 2 TIMES

\$1000 x 2.3% = \$1023

 $1023 \times 2.3\% = \text{new monthly rate of } 1046.53$ 

INCORRECT:  $$1000 \times 4.6\% = $1046.00$ 



AB 370 (Sec. 5)

Claims with Dates of Injury/Occupational Disease Disablement before 1/1/1989:

2.3% compounded 3 times

Monthly Rate X 2.3% compounded 3 times (7.06%)



Monthly Rate x 6.9%





**EXAMPLE: 2** 

Monthly Rate of \$1000

DOI: PRIOR TO 1/1/1989 – ENTITLED TO COLA OF 2.3% COMPOUNDED 3 TIMES

 $1000 \times 2.3\% = 1023$ 

 $1023 \times 2.3\% = 1046.53$ 

 $1046.53 \times 2.3\% = \text{new monthly rate of } 1070.60$ 

INCORRECT:  $$1000 \times 6.9\% = $1069.00$ 



#### DOI Prior to 1/1/1989

Monthly Rate x 2.3% = MR1

 $MR1 \times 2.3\% = MR2$ 

 $MR2 \times 2.3\% = MR3$ 

MR3 = New Base Rate

#### Compound 3 times DOI 1/1/1989-12/31/1993

#### **Compound 2 times**

Monthly Rate x 2.3% = MR1

 $MR1 \times 2.3\% = MR2$ 

MR 2 = New Base Rate

#### DOI 1/1/1994 and later

#### **Monthly Rate**

(No catch –up)

**Monthly Rate = Base Rate** 

# Survivors' Claims 2.3% COLA Calculation January 2020



#### **DOI before 1/1/1989:**

MR3 (New Base Rate) x 2.3% = New Monthly Rate starting Jan 2020

#### DOI between 1/1/1989 and 12/31/1993:

MR2 (New Base Rate) x 2.3% = New Monthly Rate starting Jan 2020

#### **DOI on or after 1/1/1994:**

MR (Base Rate) x 2.3% =
New Monthly Rate starting Jan 2020

# PTD Claims 2.3% COLA Calculation January 1, 2020



#### All PTD Claims:

Monthly Rate x 2.3% = New Monthly Rate for 2020

- DOI or Occ Disease Disablement before 1/1/2004: First 2.3% annual increase pursuant to NRS 616C.473 (2) (new language)
- DOI or Occ Disease Disablement on or after 1/1/2004: Continue annual 2.3% increases pursuant to NRS 616C.473(1)

### 2.3% COLA Calculation January 2020



#### **EXAMPLE: 4 Catchup**

Monthly Rate of \$1070.60 (monthly rate after 2.3% compounded 3 times calculation)

ENTITLED TO 2.3% COLA, \*after being caught up \*

 $1070.60 \times 2.3\% = new$  monthly rate of 1095.22

#### **EXAMPLE: 5 No Catchup**

Monthly Rate of \$1000

 $1000 \times 2.3\% = \text{new monthly}$  rate of 1023

#### Reimbursement:

(AB 370 – Sec. 3.8) (SB 377 – Sec. 2.5)



#### What costs are reimbursable?

Only amount that is the result of the COLA

Example: Monthly Rate after COLA applied: \$1023

Monthly Rate before COLA applied: \$1000

**Reimbursable:** \$1023-\$1000 = \$23/month

#### **Reimbursement:**

(AB 370 - Sec. 3.8)

(SB 377 - Sec. 2.5)



#### Which claims are reimbursable?

- Only the claims with certain DOI or Occ Disease Disablement
  - > PTD Claims: DOI or Occ Disease Disablement prior to January 1, 2004
  - Survivors' Claims: DOI or Occ Disease Disablement prior to July 1, 2019

#### Reimbursement:

(AB 370 - Sec. 3.8)

(SB 377 – Sec. 2.5)



#### When are the costs reimbursable?

On or before March 31 each year for the prior calendar year costs

For payments made January 1 - December 31, 2020: On or before 3/31/2021

For payments made January 1 - December 31, 2021: On or before 3/31/2022

### Steps to Reimbursement



#### Verification

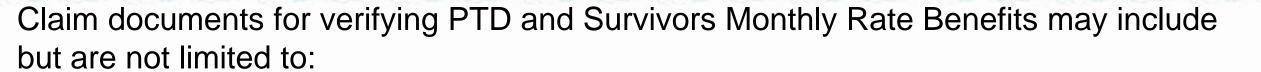
One-time verification of correct monthly rate calculation by WCS
 Verification Checklist (Form)

Supporting Documentation

#### Reimbursement Request

- AMW must be verified (one-time)
- Annual submission of reimbursement requests
   (Complete reimbursement process will be discussed at a later date)

### Permanent Total Disability & Survivors' Benefits Verification

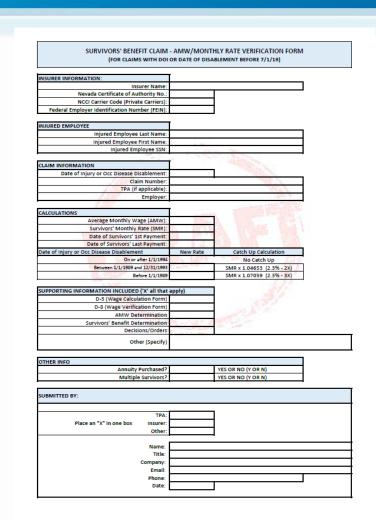


- D-5 and D-8 Forms
- AMW determination
- Decision and Orders and/or Stipulations regarding PTD or Survivors' Benefits status
- PTD or Survivors' Benefits determination letter
- Permanent Total Disability Report of Employment (D-14) (7/99)
- Any determinations suspending or denying PTD or Survivors' Benefits payments to the injured worker or survivor
- Case notes

#### **AMW/MONTHLY RATE VERIFICATION FORMS**



(FOR CEALWIS WITH BOT OR BATE)	OF DISABLEMENT BEFORE 1/1/2004)
INSURER INFORMATION:	
Insurer Name:	
Nevada Certificate of Authority No.:	<del></del>
NCCI Carrier Code (Private Carriers):	<del></del>
Federal Employer Identification Number (FEIN):	
INJURED EMPLOYEE	
Injured Employee Last Name:	
Injured Employee First Name:	r e.
Injured Employee SSN:	1 5 1 No. 1 Table 1
,	4 100
CLAIM INFORMATION	
Date of Injury or Occ Disease Disablement:	100
Claim Number:	100
TPA (if applicable):	712
Employer:	
7.50	
CALCULATIONS	
Average Monthly Wage (AMW):	COUNTY THE SECTION OF
Monthly PTD Rate (prior to offset):	SAM HAS IN
Date of 1st PTD Payment:	(* C - 103)
Date of Last PTD Payment:	37. 30
SUPPORTING INFORMATION INCLUDED ('X' all that apply)	641
D-5 (Wage Calculation Form)	197
D-8 (Wage Verification Form)	7-07
AMW Determination	and the
PTD Determination	-3/
Decisions/Orders	422
Other (Specify)	The second second
OTHER INFO	
Annuity Purchased?	YES OR NO (Y OR N)
Offset (PPD, Subro, Etc) Applied?	YES OR NO (Y OR N)
SUBMITTED BY:	
JOHNITICO DI:	
TPA:	
Place an "X" in one box Insurer:	<del></del>
Other:	
out.	
Name:	
Title:	
Company:	
Email:	



#### PROCESS FOR VERIFICATION

A one-time process that is required before a request for reimbursement will be considered



- Submit appropriate Verification Form and supporting documentation to WCS at COLAS@business.nv.gov
- WCS staff will review documents submitted
- WCS determine if any additional information is needed
- WCS will verify AMW and Monthly Rate calculations are correct
- WCS will provide a response to the verification request
- If verified, request for reimbursement may be considered

### Questions?



### Contacting WCS



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